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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/461,336	12/15/1999	DAZHI CHEN	043311-0313722	3675
909	7590	02/02/2012		
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EXAMINER				
SHEIKH, ASEAND M				
ART UNIT		PAPER NUMBER		
3627				
NOTIFICATION DATE		DELIVERY MODE		
02/02/2012		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

09/461,336

Applicant(s)

CHEN ET AL.

Examiner

ASFAND SHEIKH

Art Unit

3627

Period for Reply -- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-10, 14-16, 23-33, 133, 134 and 136-152 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-10, 14-16, 23-33, 133, 134 and 136-152 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CI/C3)
Paper No(s)/Mail Date 5/4/2011
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Intervenor Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

In view of the Appeal Brief filed on 9/6/2011, PROSECUTION IS HEREBY REOPENED. New grounds of rejection for applicable dependent claims are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627.

Response to Arguments

Applicant's arguments filed 9/6/2011 have been fully considered but they are not persuasive.

With respect to claim 1 and 133: the Appellant argues the rejection of claim 1 constitutes legal error and must be reversed at least because the proposed combination of Mossberg, Gregory, Leonard, and Woolston does not teach or suggest all of the claimed features. For example, the proposed combination does not teach or suggest (a) auctioning dining incentives on a web-site, (b) auctioning a discount from a predetermined price at a restaurant, and/or (c) enabling one or more restaurants to post on the web site dining incentives for auction.

The examiner disagrees.

The examiner notes Mossberg was taught to disclose a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54). Further Mossberg discloses an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. invitation to a restaurant) (see at least, col. 3, lines 57-61). Further teaching reference of Woolston was taught to disclose enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51). Further teaching reference of Gregory was taught to disclose "dining incentives" (see at least, col. 6, lines 54-67). Further Gregory discloses if a particular restaurant location is not

doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory discloses the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the coupon/certificate is valid, the expiration date of the coupon, and the product to which the coupon/certificate applies (see at least, col. 6, lines 54-67). The examiner notes when combined the teachings of Mossberg, Gregory, Leonard, and Woolston would teach the argued limitations noted above. The examiner notes motivation was provided for such a combination and further one of ordinary skill in the art would have had the knowledge to combine the teachings in order to obtain a predictable result based on the modification of known elements in the art (e.g. auctioning dining incentives), therefore the examiner finds these arguments not persuasive.

The examiner further notes that the Gregory reference teaches "certificates" (see at least, col. 6, lines 54-67). Similar rationale is further applied as noted above, therefore the examiner finds these arguments not persuasive.

With respect to claim 4, the examiner notes Woolston was taught to disclose to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction (see at least, col. 13, lines 21-57) which is substantially similar to wherein the step of displaying options to enable users to place bids on dining incentives for auction or to purchase the dining incentives at fixed prices without participating in the auction includes a

registration process where each of the one or more users provides identification, demographic and service preference information, therefore the examiner finds these arguments not persuasive.

With respect to claim 148, the examiner notes Official Notice was taken with respect to the applicant's argued features. The examiner notes the Applicant has failed to traverse the subject matter of the Official Notice, therefore the subject matter of the Official Notice and how it applies to claim 148, is noted to be admitted prior art.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9, 14-16, 23-25, 27-32, 33, 133-134, 136-146 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Leonard et al. (US 5,903,874) and Woolston (US 5,845,265).

Claims 1-9, 14-16, 23-25, 27-31, 33, 133-134, 136-146

Mossberg discloses a method enabling the conducting of a silent auction (see at least, col. 3, lines 44-47) and that the auction could be conducted for profit (see at least, col. 3, lines 49-54). Further Mossberg discloses **[claim 139 and 140]** an auction item or multiple similar auction items which can include a certificate entitling the bearer to specific goods or services or invitations to dinner (e.g. invitation to a restaurant) (see at least, col. 3, lines 57-61).

Mossberg fails to disclose providing a computer-implemented processing system comprising a plurality of modules; providing an auction posting module for enabling one or more of the restaurants to post on the web site a listing of at least one discounted gift certificates being offered for sale, including restrictions comprising valid dates and times for use of the at least one discounted gift certificate, the restrictions corresponding to non-peak demand period of a restaurant to reduce excess capacity during the non-peak demand period; and providing an auction display module for displaying options to enable users to place a bid on at least one discounted gift certificates for auction and being determined a winner, or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction; and providing the at least one discounted gift certificate to a purchaser or the auction winner the discounted gift certificates, wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period for a discount from the predetermined price, subject to restrictions.

Gregory discloses one or more restaurants create/customize coupon/certificate for specific locations (see at least, col. 6, lines 54-67). Further Gregory discloses if a particular restaurant location is not doing well a coupon can be distributed that provides a greater discount at that restaurant location than the discount provided at other locations (see at least, col. 6, lines 54-67). Further Gregory discloses the coupon/certificate would have include specific details like the amount of the discount on the coupon, the days and hours the coupon is valid, the location at which the

coupon/certificate is valid (e.g. **dining incentives/certificates**), the expiration date of the coupon, and the product to which the coupon/certificate applies (see at least, col. 6, lines 54-67).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg's silent auction of certificate to an invitation to dinner to include one or more discounted gift certificates being offered for sale wherein the one or more restaurants provide the valid dates and times for use of the one or more discounted gift certificates to reduce excess capacity during the non-peak demand period and wherein the discounted gift certificates are redeemable for the service from a corresponding one of the one or more restaurants during the non-peak demand period as taught by Gregory to have an auction for a coupon/certificate that contains the valid dates and times that a coupon can be used. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide boosts in profit for restaurants, if a given restaurant location is not doing well (see at least, Gregory, col. 6, lines 54-67).

Mossberg in view of Gregory fails to disclose providing a computer-implemented processing system comprising a plurality of modules; providing an auction posting module for enabling one or more of the restaurants to post on the web site a listing of at least one discounted gift certificates being offered for sale, including restrictions comprising valid dates and times for use of the at least one discounted gift certificate, the restrictions corresponding to non-peak demand period of a restaurant to reduce excess capacity during the non-peak demand period; and providing an auction display

module for displaying options to enable users to place a bid on at least one discounted gift certificates for auction and being determined a winner, or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction; and providing the at least one discounted gift certificate to a purchaser or the auction winner.

Leonard discloses a coupon that provides restrictions corresponding to non-peak demand period of a business to reduce excess capacity during the non-peak demand period (see at least, col. 5, lines 47-60: the examiner notes if scheduled for use during off peak hours it would be designed to reduce excess capacity).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory's auctioning of a certificate including valid days and hours to a coupon that provides restrictions corresponding to non-peak demand period of a business to reduce excess capacity during the non-peak demand period as taught by Leonard to have an online auction capable of showing detailed information regarding coupon use. One of ordinary skill in the art would have been motivated to modify the references in order to provide an incentive for customers to utilize a service during off-peak hours (see at least, col. 5, lines 47-60).

Mossberg in view of Gregory and Leonard fails to disclose providing a computer-implemented processing system comprising a plurality of modules; providing an auction posting module for enabling one or more of the restaurants to post on the web site a listing of at least one discounted gift certificates being offered for sale, including

restrictions comprising valid dates and times for use of the at least one discounted gift certificate; and providing an auction display module for displaying options to enable users to place a bid on at least one discounted gift certificates for auction and being determined a winner, or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction; and providing the at least one discounted gift certificate to a purchaser or the auction winner.

Woolston discloses enabling one or more users to post on the web site a listing of one or more items being offered for sale (see at least, col. 5, lines 46-51) and further providing the ability to list further descriptive information regarding the sale of the item (see at least, FIG 13: the examiner notes the descriptive information is a matter of design choice (e.g. valid dates and times for use of the one or more discounted gift certificates to reduce excess capacity during the non-peak demand period)) and further displaying options to enable users to place a bid on one or more items for auction and being determined a winner (see at least, col. 13, lines 21-57) or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction (see at least, col. 13, lines 21-57) and awarding the auction winner the item (see at least, col. 13, lines 21-57). Further Woolston discloses **[claim 134]** the user setting a minimum bid price for an auction item (see at least, col. 15, lines 43-67); **[claim 136 and 138]** wherein the website includes an auction display feature, the auction display comprising one or more of a name of the item, name of the manufacturer (e.g. examiner interprets this could

include a restaurant), a description of the at least one item, including the validity and value (e.g. the examiner notes this information is a matter of design choice), a minimum bid requirement, and a status of the auction, including a current bid and a time left for bidding (see at least, col. 11, lines 46-col. 12, lines 9 and col. 15, lines 43-67 and FIG. 13); **[claim 137]** wherein the web site includes an item display feature, the display comprising an indication that the immediate purchase option is available at a fixed price for immediate purchase (see at least, col. 15, lines 43-67) and **[claim 141]** wherein more than one individual can auction off items (see at least, Summary of the Invention); **[claim 145 and 146]** user must register with the website prior to bidding on or purchasing an item and member nickname and password (see at least, col. 12, lines 20-col. 13, line 20).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory's auctioning of a certificate to include enabling one or more users to post on the web site a listing of one or more items being offered for sale and further providing the ability to list further descriptive information regarding the sale of the item and further displaying options to enable users to place a bid on one or more items for auction and being determined a winner or to purchase the one or more discounted gift certificates at a fixed price independent of the auction via an instant purchase feature without participating in the auction and awarding the auction winner the item as taught by Woolston to have on online auction capability for offering coupons for sale. One of ordinary skill in the art would have been motivated to combining the teachings in order to

provide a low cost computer means for vendors to establish a "trusted" computerized market for items (see at least, Woolston, col. 1, lines 34-36).

Further Woolston discloses **[claim 134]** the user setting a minimum bid price for an auction item (see at least, col. 15, lines 43-67); **[claim 136 and 138]** wherein the website includes an auction display feature, the auction display comprising one or more of a name of the item, name of the manufacturer (e.g. examiner interprets this could include a restaurant), a description of the at least one item, including the validity and value (e.g. the examiner notes this information is a matter of design choice), a minimum bid requirement, and a status of the auction, including a current bid and a time left for bidding (see at least, col. 11, lines 46-col. 12, lines 9 and col. 15, lines 43-67 and FIG. 13); **[claim 137]** wherein the web site includes an item display feature, the display comprising an indication that the immediate purchase option is available at a fixed price for immediate purchase (see at least, col. 15, lines 43-67) and **[claim 141]** wherein more than one individual can auction off items (see at least, Summary of the Invention); **[claim 145 and 146]** user must register with the website prior to bidding on or purchasing an item and member nickname and password (see at least, col. 12, lines 20-col. 13, line 20).

Claims 10, 26, 32, and 147-148 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Leonard et al. (US 5,903,874) and Woolston (US 5,845,265) as applied to the independent claims above, and further in view of Examiner's Official Notice.

Claims 10, 26, 32

The examiner notes that the combination of Mossberg in view of Gregory and Leonard and Woolston disclose the limitations of the invention the combination however is silent with respect to:

wherein a user can personalized auction page where the user creates an auction list comprising a list of one or more auctions of interest and monitors the one or more auctions of interest on the auction list;

wherein bidding data and user information are aggregated and provided to the one or more restaurants to be used for at least one of: targeted marketing or promotions;

further comprising the step of enabling the winner and the one or more purchasers to download the item for redemption from the web-site or via electronic mail.

However, the examiner takes Official Notice that it is old and well known that many websites allow a user to allow a user to customize/personalize a given web page for a particular use, use web information as means for targeted marketing/promotion, and/or download data via a website or electronic mail. This helps by maximizing the user's experience based on the collected data.

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Leonard and Woolston to include having a user input demographic information during registration as taught by Examiner's Official Notice. One of ordinary skill in the art

would have been motivated to do so in order to maximize the user's experience based on the website interaction.

Claims 147-148

The examiner notes that the combination of Mossberg in view of Gregory and Leonard and Woolston disclose the limitations of the invention the combination however is silent with respect to including demographic information during registration.

However, the examiner takes Official Notice that it is old and well known that many websites require user's to input demographic information during registration in order to better tailor to user's needs. This helps by maximizing the user's experience based on the collected data.

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Leonard and Woolston to include having a user input demographic information during registration as taught by Examiner's Official Notice. One of ordinary skill in the art would have been motivated to do so in order to maximize the user's experience based on the collected data.

Claims 149-152 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mossberg (US 5,803,500) in view of Gregory (US 5,909,673) and Leonard et al. (US 5,903,874) and Woolston (US 5,845,265) as applied to the independent claims above, and in further view of Shear et al. (US 6,112,181),

Claim 149

The examiner notes that the combination of Mossberg in view of Gregory and Leonard and Woolston disclose the limitations of the invention the combination however is silent with respect to a restaurant search module.

Shear discloses a restaurant search module (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Leonard and Woolston to include a restaurant search module as taught by Shear. One of ordinary skill in the art would have been motivated to combine the teachings in order to help a user find the items they are looking for quickly and easily (see at least, Shear, col. 3, lines 20-31).

Claim 150

The examiner notes that the combination of Mossberg in view of Gregory and Leonard and Woolston disclose the limitations of the invention the combination however is silent with respect to a restaurant search module including an interactive guide.

Shear discloses a restaurant search module including an interactive guide (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Leonard and Woolston to include a restaurant search module including an

interactive guide as taught by Shear. The motivation to combine is the same as claim 149, above.

Claim 151-152

The examiner notes that the combination of Mossberg in view of Gregory and Leonard and Woolston disclose the limitations of the invention the combination however is silent with respect to listing restaurants based on desired cuisine, zip code, or other geographic area parameters or other search parameters.

Shear discloses listing restaurants based on desired cuisine (Shear, see at least, Abstract and col. 8, lines 66-67 and col. 9, lines 1-26).

Therefore the examiner asserts it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Mossberg in view of Gregory and Leonard and Woolston to include to include a listing restaurants based on desired cuisine, as taught by Shear. The motivation to combine is the same as claim 149, above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ASFAND SHEIKH whose telephone number is (571)272-1466. The examiner can normally be reached on 9a-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on (571)272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Asfand Sheikh/
Primary Examiner, Art Unit 3627